



Control Number: 38743



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**SOAH DOCKET NO. 473-11-0945
DOCKET NO. 38743**

APPLICATION OF ELECTRIC §
TRANSMISSION TEXAS, LLC TO §
AMEND ITS CERTIFICATE OF §
CONVENIENCE AND NECESSITY FOR §
THE TESLA TO EDITH CLARKE TO §
CLEAR CROSSING TO WEST §
SHACKELFORD 345-KV CREZ §
TRANSMISSION LINE IN CHILDRESS, §
COTTLE, HARDEMAN, FOARD, §
KNOX, HASKELL, JONES, AND §
SHACKELFORD COUNTIES §

**PUBLIC UTILITY COMMISSION
OF TEXAS**

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**MOTION TO QUASH THE DEPOSITION OF A PERSON OR PERSONS
DESIGNATED ON BEHALF OF TEXAS PARKS AND WILDLIFE**

The City of Abilene ("City") files this Motion to Quash the Deposition of a Person or Persons Designated on behalf of Texas Parks and Wildlife ("TPWD") currently scheduled for January 19, 2011. The Duff/Alexander Group filed its Motion for Issuance of Subpoena for the Attendance of a Witness at a Deposition, the Production of Documents, and for the Expedited Issuance of Commission for a Deposition on January 12, 2011. The Administrative Law Judge ("ALJ") issued SOAH Order No. 6 on January 13, 2011, ordering TPWD to designate a person or persons to testify on its behalf. The Duff/Alexander Group's attempt to conduct discovery at this point in the proceeding is untimely and should not be permitted.

In its motion, the Duff/Alexander Group indicated that it seeks to conduct a deposition of an individual from TPWD in response to a letter dated December 17, 2010 from TPWD concerning this project that expressed support for route CW7. This letter was sent to Public Utility Commission of Texas ("PUC" or "Commission") Staff witness, T. Brian Almon, and filed in this docket on December 21, 2010. Mr. Almon also submitted this letter with his direct

testimony on behalf of PUC Staff.¹ Although this letter was made available on December 21, 2010, the Duff/Alexander Group has waited until less than a week before the hearing on the merits and after the discovery deadline has passed to seek information from TPWD that might support the Duff/Alexander Group's proposed route.

Electric Transmission Texas, LLC ("ETT") filed this application with the Commission nearly three months ago on October 20, 2010. Pursuant to the procedural schedule established in SOAH Order No. 3, the period for discovery ended on January 7, 2011.² Accordingly, the Duff/Alexander group had the opportunity to conduct discovery from October 20, 2010 through January 7, 2011 relating to Alternate Route CW10, but did not do so. Furthermore, the Duff/Alexander Group had the opportunity to conduct discovery relating to the TPWD letter referenced in its motion from the day the letter was filed at the Commission, December 21, 2010, through January 7, 2011, but did not do so. However, the Duff/Alexander group now seeks to conduct further discovery to bolster their case on January 19, 2011, twelve days after the discovery deadline has passed and during the hearing on the merits. Furthermore, conducting this deposition on January 19 will interrupt the hearing, forcing parties to unnecessarily expend more time and resources on this proceeding. Allowing the Duff/Alexander Group to conduct this untimely discovery during the hearing is unjust and should not be permitted. Therefore, this motion to quash the deposition of a person or persons designated to testify on behalf of TPWD should be granted.


¹ Direct Testimony of T. Brian Almon at Attachment BA-3 (Jan. 7, 2011).

² Order No. 3, at 4 (Dec. 9, 2010).

WHEREFORE, PREMISES CONSIDERED, the City requests that this motion to quash the deposition be granted. The City requests such other and further relief as it may be justly entitled.

Respectfully submitted,

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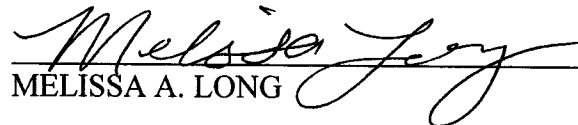

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ATTORNEYS FOR THE CITY OF ABILENE

CERTIFICATE OF SERVICE

I, Melissa A. Long, attorney, certify that a copy of this document was served on all parties of record in this proceeding on this 13th day of January, 2011, in the following manner: hand delivered, sent via facsimile, emailed or mailed by U.S. First Class Mail.


MELISSA A. LONG